



Water Resources  
Nunavut Regional Office  
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October 15, 2013

Damien Côté  
Executive Director  
Nunavut Water Board  
P.O. Box 119  
Gjoa Haven, NU, X0A 1J0

Your file - Votre référence  
2BB-MRY1114  
Our file - Notre référence  
CIDM# 748551

**Re: 2BB-MRY1114 – Baffinland Iron Mines Corporation – Mary River Project –  
Nunavut Water Board Initiated Amendment No. 1**

Dear Damien Côté:

Aboriginal Affairs and Northern Development Canada (AANDC) conducted a review of the Nunavut Water Board's (Board) proposed amendment to the scope and associated terms and conditions to Baffinland Iron Mines Corporation's (Baffinland) Type "B" Water Licence, 2BB-MRY1114, as requested by the Board on September 27, 2013.

The following advice has been provided pursuant to AANDC's mandated responsibilities for the enforcement of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (NWNSRTA) and the *Department of Indian Affairs and Northern Development Act* (DIAND Act). In conducting our review, AANDC Water Resources referred to the following documents:

- Letter from the Board to Parties Re: Proposed Board-initiated Amendment (No. 1) to the scope and associated terms and conditions of the Type "B" Water Licence 2BB-MRY1114 (September 27, 2013)
- Type "A" Water Licence 2AM-MRY1325
- Type "A" Reasons for Decision
- Type "B" Water Licence 2BB-MRY1114

The Water Resources Division appreciates the opportunity to provide comments regarding the proposed Board Initiated Amendment No. 1 to the Type "B" Water Licence 2BB-MRY1114. Should you have any questions or comments, please do not hesitate to contact me at (867) 975-4738 or by e-mail at [Jean.Allen@aandc-aadnc.gc.ca](mailto:Jean.Allen@aandc-aadnc.gc.ca)

Sincerely,

*Original Signed By*

Jean Allen  
Water Management Specialist

Cc. Murray Ball, Manager, Water Resources, AANDC  
Karen Costello, Director, Resource Management, AANDC  
Erik Allain, Manager, Field Operations, AANDC

## **Technical Review Memorandum**

To: Damien Côté – Executive Director, Nunavut Water Board

From: Jean Allen – Water Management Specialist, AANDC

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**Re: 2BB-MRY1114 – Baffinland Iron Mines Corporation – Mary River Project – Nunavut Water Board Initiated Amendment No. 1**

### **A. Background**

The Nunavut Water Board (Board) issued Baffinland Iron Mines Corporation (Baffinland) a Type “A” Water Licence 2AM-MRY1325 to use water and deposit waste in relation to the construction, operation, closure, and reclamation of an iron mine under the Mary River Project in June 2013. The Board’s Type “A” Reasons for Decision indicates that most non-exploration activities and undertakings under the existing Type “B” Water Licence were expected to be incorporated into the Type “A” Water Licence. Now that the Type “A” Water Licence has been issued, the Board is proposing to undertake a Board Initiated Amendment of the scope and associated conditions of the existing Type “B” Water Licence 2BB-MRY1114 to limit its scope to activities and undertakings that are not incorporated into the Type “A” Water Licence and to reduce financial security held under the Type “B” Water Licence.

In the letter dated September 27, 2013, the Board requested comments specifically from Aboriginal Affairs and Northern Development Canada (AANDC), Qikiqtani Inuit Association (QIA), and Baffinland by October 11, 2013 to address four matters. As requested by the Board, AANDC addresses these matters in Section B below.

### **B. Results of Review**

AANDC Water Resources Division offers the following comments/ recommendations for the Board’s consideration in regards to the Board Initiated Amendment No. 1 to the Type “B” Water Licence 2BB-MRY1114.

#### **1) Identifying any overall issues with the Board’s approach to the amendment of scope and associated conditions and security under a Board initiated amendment**

Now that many of the activities and undertakings under the Type “B” Water Licence are under the Type “A” Water Licence, AANDC agrees that the scope of the Type “B” should be limited to activities and undertakings that are not in the Type “A” Water Licence.

Licensing for the Mary River Project is complex as there are three outstanding water licences (including a Type “A” water licence containing some novel approaches to reclamation bonding), and the project is in the midst of an environmental assessment of its reconfiguration, all while construction is underway. Moreover, in this process, the Board states that a significant number of the overall terms and conditions in the Licence will have to be modified or removed from Water Licence 2BB-MRY1114. For these reasons, AANDC recommends that the Board provide the opportunity to comment on a draft amended licence prior to its issuance.

AANDC further recommends that rather than issuing a stand-alone amendment document, the Board amend and restate Water Licence 2BB-MRY1114.

**2) Commenting on any issues associated with the wording of the scope and security components of the proposed Amendment (No. 1) to the existing Type “B” Water Licence**

The proposed scope references the Licensee’s correspondence to the Board on October 31, 2012. As noted by the Board, some of those activities are not approved under the current licence and would require future amendments (i.e., bulk sampling, future satellite camps). AANDC recommends that all activities to remain in the Type “B” Water Licence 2BB-MRY1114 (column four of Appendix A) be clearly specified in the amended and restated water licence.

The Board is proposing to reduce the scope of the Type “B” Water Licence 2BB-MRY-1114 from bulk sampling operations to exploration and geotechnical drilling operations. AANDC requests clarification from the Board on whether a change to the licence type is also proposed (2BB to a 2BE water licence).

AANDC notes that the Board uses the term “Mining and Milling Undertaking” in the proposed wording of the scope whereas the term “Mining Undertaking” would be more in line with Schedule I of the new Nunavut Waters Regulations.

**3) Commenting on any issues associated with the direction proposed to be issued by the Board under Part C, Item 5 of the Type “A” Water Licence**

As the Board stated in their September 27, 2013 letter, the proposed reduction in security held under the Type “B” Water Licence requires reconciliation with the security requirements of the Type “A” Water Licence. It is our understanding that the direction as contemplated under Part C, Item 5 of the Type “A” Water Licence regarding security reconciliation will not take place until the proposed Amendment No. 1 to Part B, Item 2 of the Type “B” Water Licence takes effect.

AANDC requires that reconciliation of security requirements for the Type “B” and Type “A” Water Licences be conducted in such a way that the Minister will hold the total financial security for the overall reclamation liability of the mine site at any given

time during the amendment process and that there will be no instance where the Minister does not hold sufficient financial security for reclamation liability of the Mary River Project (reclamation liabilities for 2AM-MRY1325 and 2BB-MRY1114). AANDC requires that separate security instruments be submitted to the Minister for reclamation liability under each Water Licence.

**4) Identifying for the Board any additional requests for direction regarding security required by the parties pursuant to Part C, Item 5 of the Type “A” Water Licence**

AANDC has no additional requests regarding security pursuant to Part C, Item 5 of the Type “A” Water Licence.